UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY Plaintiff, v. MICROSOFT CORPORATION, OPENAI, INC., OPENAI LP, OPENAI GP, LLC, OPENAI, LLC, OPENAI OPCO LLC, OPENAI GLOBAL LLC, OAI CORPORATION, LLC, and OPENAI HOLDINGS, LLC, Defendants.	Civil Action No. 1:23-cv-11195-SHS **DECLARATION OF ZACHARY B. SAVAGE**

I, Zachary B. Savage, pursuant to 28 U.S.C. § 1746, declare as follows:

1.   I am a Partner at Susman Godfrey L.L.P., located at One Manhattan West, New York, NY 10001, which represents Plaintiff The New York Times Company ("The Times") in this case. I submit this declaration with The Times's response to Defendant OpenAI's motion to consolidate this case with the *Daily News* case pending before this Court. *See Daily News, LP et al. v. Microsoft Corp. et al.*, Case 1:24-cv-03285; Dkt. 142.

2.   After OpenAI informed The Times of its intent to file its motion, The Times requested a meet-and-confer to understand precisely what OpenAI sought to accomplish with consolidation. I attended the ensuing meet and confer, which was held on June 12. During that meet and confer, OpenAI identified three goals: (1) setting a single schedule to govern both cases that included an extension of the fact discovery deadline in this case through March 2025, (2) coordination between The Times and the *Daily News* plaintiffs on depositions, including consolidated 30(b)(6) deposition notices for topics relevant to both cases, and (3) coordination of "administrative issues."

When asked for specific examples of "administrative issues," OpenAI asserted that both cases should be governed by the same Protective Order and ESI Order.

3.   After that meet and confer, OpenAI filed its motion to consolidate. Its motion did not seek an extension of fact discovery through March 2025, nor did its motion include a proposal for a revised scheduling order. Instead, the motion sought "at least six months to complete fact discovery in the consolidated *New York Times* and *Daily News* matters." Dkt. 143 at 11.

4.   The Times then made a proposal to OpenAI to resolve both its motion to consolidate and The Times's pending motion for leave to amend the Complaint (Dkt. 118). A copy of that proposal, communicated by email on June 18 and sent by my partner Ian Crosby, is attached hereto as **Exhibit 1**. The Times's proposal included a two-month extension on all case deadlines, pushing the close of fact discovery from mid-September 2024 to mid-November.

5.   In a June 21 email responding to The Times's proposal, counsel for OpenAI requested a March 2025 close of fact discovery. A copy of that email from OpenAI's counsel is included within **Exhibit 1.**

6.   Attached hereto as **Exhibit 2** is a copy of a May 7, 2024 email that OpenAI sent The Times and the plaintiffs in the related Class Actions pending before this Court,[1] as well as the plaintiffs in the class actions proceeding against OpenAI in the Northern District of California. No. 3:23-cv-03223-AMO.

7.   The Times has produced 13,885 documents. OpenAI made its first production in this

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[1] "Class Actions" refers to *Authors Guild et al. v. OpenAI, Inc. et al.* (No. 1:23-cv-08292), *Alter et al. v. OpenAI, Inc. et al.* (No. 1:23-cv-10211), and *Basbanes et al. v. OpenAI, Inc. et al.* (No. 1:23-cv-00084).

case on May 16, 2024, producing 43 documents. OpenAI did not produce any other documents until June 8, less than one week before its June 14 substantial completion deadline for The Times's first set of requests for production.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 27th day of June, 2024.

/s/ Zachary B. Savage
Zachary B. Savage